HIGH COURT OF JUDICATURE FOR RAJASTHAN BENCH AT JAIPUR

S.B. Civil Miscellaneous Appeal No. 634 / 2005

Smt Durga Devi

----Appellant

Versus

Hansraj & Ors

----Respondent

For Appellant(s) : Mr. K.N. Tiwari

For Respondent(s) : Mr. Ashok Mehta

HON'BLE MR. JUSTICE MAHESH CHANDRA SHARMA

Judgment

12/04/2017

Heard learned counsel for the parties and after hearing both the parties, this appeal is being disposed of at this stage.

Brief facts of the case are that this appeal has been filed against the impugned judgment and award under appeal.

At the very outset, learned counsel for the appellant/s submits that the learned Tribunal while passing the impugned award has not taken into consideration the objections which he has raised by way of aforesaid appeal. The finding of learned Tribunal on **issue No/s. 1,3 and 4** is contrary to the material available on record. Thus, the impugned award passed by the learned Tribunal

qua **issue No/s.1,3 and 4** be quashed and set aside and the matter be remanded to the learned Tribunal with the direction to decide the matter afresh in the light of objections which he has raised by way of aforesaid appeal.

On the other hand, the learned counsel for the respondent/s, though opposed the same but requested that the learned Tribunal may be directed to hear him/them at the time of deciding the matter afresh on the aforesaid issue/s, and he may be permitted to raise all the objections, grounds as have been raised in this appeal.

I have heard learned counsel for the parties and carefully perused the relevant material on record including the impugned award.

In my considered view, the learned Tribunal while passing the impugned award has not gone through the facts of the case and passed the impugned award surreptitiously. Thus, the impugned award passed by the learned Tribunal needs interference by this court.

In the result, the appeal is partly allowed and the impugned judgment and award passed by learned Tribunal qua **issue No/s. 1,3**

and 4 is quashed and set aside with the direction to the learned Tribunal to decide the matter afresh as early as possible, qua **issue No/s. 1,3 and 4** in the light of grounds raised by the learned counsel for the parties in the aforesaid appeal and in the light of judgments which the counsel appearing for the respective parties may want to submit / cite before the learned Claims Tribunal, if applicable, after issuing notice to all the concerned parties and giving opportunity of hearing to them.

Both the parties request for specific date for appearing before the trial court, hence they are directed to appear before the learned Tribunal on 5.7.2017. Record, if any, be sent back.

(MAHESH CHANDRA SHARMA) J.

RAJASTHAN HIGH COURT
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